

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

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QUANTUM CORPORATE FUNDING, LTD.,

Plaintiff,

vs.

WESTWOOD DESIGN/BUILD INCORPORATED,
DAVID R. WARFIELD, NATIONAL CITY
MORTGAGE INC., and PENN LYON HOMES
CORPORATION,

Defendants.

NATIONAL CITY MORTGAGE,

Third-Party Plaintiff,

vs.

MICHAEL CONRAD, a/k/a MICHAEL CONRAD
BROWN,

Third-Party Defendant.

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Civil Action No. 08-cv-0539
(LAK) (HBP)

**ANSWER TO CROSS-CLAIMS
OF DEFENDANT PENN LYON
HOMES CORPORATION**

Defendant National City Mortgage, a division of National City Bank (incorrectly pleaded as "National City Mortgage Inc.") (hereinafter, "NCM"), by its attorneys, McCarter & English, LLP, by way of its Answer to the Cross-Claims of co-defendant Penn Lyon Homes Corporation (hereinafter, "Penn Lyon") asserted in Penn Lyon's Answer to Complaint (hereinafter the "Cross-Claims"), respectfully states as follows:

**AS TO "FIRST CROSS-CLAIM AGAINST CO-DEFENDANTS WESTWOOD,
NATIONAL AND WARFIELD"**

35. NCM denies the allegations set forth in paragraph 35 of the Cross-Claims insofar as those allegations pertain to NCM.

**AS TO "SECOND CROSS-CLAIM AGAINST CO-DEFENDANTS WESTWOOD,
NATIONAL AND WARFIELD"**

36. NCM denies the allegations set forth in paragraph 36 of the Cross-Claims insofar as those allegations pertain to NCM.

**AS TO "THIRD CROSS-CLAIM AGAINST CO-DEFENDANTS WESTWOOD AND
WARFIELD"**

The allegations of the Third Cross-Claim are not directed at NCM and, as such, no response by this defendant is required.

In response to the ad damnum and prayer for relief clauses of the Cross-Claims, NCM denies that Penn Lyon is entitled to any of the relief requested therein, or to any other relief, insofar as such relief is sought from NCM.

SEPARATE DEFENSES

Without assuming the burden of proof on any issue as to which the burden is on co-defendant Penn Lyon Homes Corporation under applicable law, defendant National City Mortgage, a division of National City Bank, asserts the following separate defenses to the Cross-Claims of Penn Lyon Homes Corporation:

FIRST SEPARATE DEFENSE

The Cross-Claims, in whole or in part, fail to state a claim upon which relief may be granted.

SECOND SEPARATE DEFENSE

Co-defendant Penn Lyon Homes Corporation is estopped and barred by its own conduct from requesting the relief set forth in the Cross-Claims.

THIRD SEPARATE DEFENSE

The Cross-Claims fail because there is no privity of contract between NCM and Penn Lyon Homes Corporation.

FOURTH SEPARATE DEFENSE

NCM breached no duty, contractual or otherwise, owed to co-defendant Penn Lyon Homes Corporation.

FIFTH SEPARATE DEFENSE

NCM exercised ordinary care, and acted in good faith in accordance with the reasonable commercial standards applicable to its business.

SIXTH SEPARATE DEFENSE

Co-defendant Penn Lyon Homes Corporation's alleged damages were caused by its own negligence and/or the unforeseeable acts of third persons or entities over whom NCM had no control and/or for whom this defendant bears no liability.

SEVENTH SEPARATE DEFENSE

The Cross-Claims are barred in whole or in part because of co-defendant Penn Lyon Homes Corporation's contributory/comparative negligence.


EIGHTH SEPARATE DEFENSE

NCM hereby expressly reserves and does not waive the right to assert any and all defenses at such time and to such extent as discovery and factual developments establish a basis therefor.

WHEREFORE, defendant National City Mortgage, a division of National City Bank, demands judgment dismissing the Cross-Claims of Penn Lyon Homes Corporation in their entirety with prejudice, awarding NCM its costs and attorneys' fees for the defense of this action, and awarding such further relief as the Court may deem just and equitable.

Dated: Newark, New Jersey
April 30, 2008

Respectfully Submitted,
McCARTER & ENGLISH, LLP

By: 
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Attorneys for Defendant/Third-Party
Plaintiff National City Mortgage, a division
of National City Bank

CERTIFICATE OF SERVICE

I, Marisa J. Steel, an attorney duly admitted to practice law before this Court, hereby certify that on this date I caused a true copy of this ANSWER TO CROSS-CLAIMS OF DEFENDANT PENN LYON HOMES CORPORATION to be filed electronically and sent to the following counsel of record for plaintiff and co-defendant Penn Lyon Homes Corporation via the Court's electronic filing system and regular mail addressed as follows: Bernard Kobroff, Esq., Goetz Fitzpatrick LLP, One Penn Plaza, 44th Floor, New York, New York 10119; Scott H. Goldstein, Esq., Bonner Kiernan Trebach & Crociata LLP, Empire State Building, Suite 3304, New York, New York 10118.

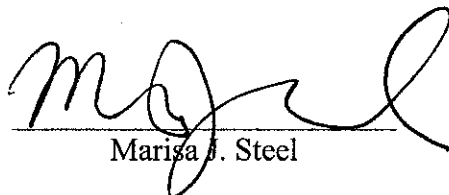
I further certify that I caused a true copy of this ANSWER TO CROSS-CLAIMS OF DEFENDANT PENN LYON HOMES CORPORATION to be served upon co-defendants Westwood Design/Build Incorporated, David Warfield, and Penn Lyon Homes Corporation and Third-Party Defendant Michael Conrad via overnight mail at the following addresses:

Westwood Design/Build Incorporated
12109 Gordon Avenue
Beltsville, Maryland 20705

David R. Warfield
715 East Maple Road
Linthicum Heights, Maryland 21090

Mr. Michael Conrad
12109 Gordon Avenue
Beltsville, Maryland 20705

Dated: Newark, New Jersey
April 30, 2008



Marisa J. Steel